IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Crl.Rev.Pet.No. 614 of 1999()

CC.226/1994 of JUDL. MAGISTRATE OF FIRST CLASS, VAIKOM
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REVN. PETITIONER: DEFACTO COMPLAINT

CHANDRIKA, W/O.K. PADMAKSHAN,
ANJUPURAYIL HOUSE,
CHETTIMANGALAM, THEKKENADA, VAIKOM,
KOTTAYAM DISTRICT.

BY ADV. SRI.S.RADHAKRISHNAN

RESPONDENTS: ACCUSED
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1. **ASHOKUMAR, S/O.KUTTAPPAN,**
   PEEDIKATHARA VEEDU,
   KIZHAKKUNCHERRY, VADAKKEMURIL,
   VAIKOM KOTTAYAM DISTRICT.

2. **STATE OF KERALA REP.BY PUBLIC PROSECUTOR,**
   HIGH COUR OF KERALA.

BY ADV. SRI.BABU CHERUKARA
PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.614 of 1999

Dated this the 4th day of July, 2007

O R D E R

The appellant is the defacto complainant in C.C.No.226/94 wherein the offences under Sections 447, 509 and 506(i) IPC are alleged and the accused stands acquitted.

2. The prosecution case is that the accused, due to previous enmity, trespassed into the northern courtyard of PW1, uttered obscene words at her and exhibited his private parts and criminally intimidated her that he will kill her.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 6 and Exts. P1 to P3.

4. The trial court after considering the evidence adduced in the matter found that the evidence of PW1, the defacto complainant, contained discrepancies and the evidence of PWs' 2 and 3, the other occurrence witnesses, are not consistent and hence acquitted the accused.

5. Evidently, the evidence of PW1 contained certain

discrepancies with respect to the incident as such also and in the complaint what is mentioned is that on account of previous enmity as she drove away the dog owned by the accused when it attempted to catch her hen and due to this enmity, the accused performed the above actions. But in the court she has stated that the incident that the dog of the accused attempted to catch her hen took place at the time of the incident. The court has also observed that PW1 has admitted that the mother of the accused was present at the scene of occurrence and hence normally no person would have conducted such an action in the presence of his mother. Of course, the above observation cannot be taken as a universal phenomena as the conduct of different individuals varies. I find that the observation of the court below with respect to the above mentioned contradictions in the evidence of PW1 is evident. The court have also found that the evidence of PWs' 2 and 3 also contained contradictions.

6. In the circumstances and considering the nature of the allegation and in view of the constraints in exercising revisional jurisdiction against acquittal, I find that this is not a fit case to

remit the matter back to the court below. The appreciation of evidence by the court below cannot be said to be perverse.

The criminal revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl